IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINRY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1253 OF 2005

Manoj Badoley …Petitioner

Versus

Bombay Municipal Corporation & Ors. ...Respondents

Mr. V.M. Thorat for the Petitioners

Ms. Aruna Savla for Respondent No. 1.

CORAM: DALVEER BHANDARI, C.J.,

&

S.J. VAZIFDAR, J.

DATE : JULY 26, 2005.

P.C.

1. The petitioner, after passing his HSC Examination, was admitted to the MBBS Course in a medical college. The petitioner, thereafter, completed the MBBS Course and also completed compulsory internship of one year. The petitioner, thereafter, was selected to the post-graduate degree course in the discipline M.S. (General Surgery) in

Topiwala National Medical College through Common Entrance Test.

2. The petitioner's prayer is that after going into the legality of the case, we may direct the Bombay Municipal Corporation to forthwith appoint, in the Department of Surgery, two Professors and four Associate Professors.

3. Pursuant to the show-cause notice issued by us, the Municipal Corporation of Greater Bombay has filed affidavit. It is incorporated in the reply that Dr. Milind More and others have already filed a Writ Petition in this Court, bearing Writ Petition (Lodging) No. 1755 of 2004, for the identical prayers as sought by the present petitioner. That Writ Petition was disposed of by this Court on 24th August, 2004 directing the Corporation to expedite the process to fill the posts of Professors and four Associate Professors in the Department of Surgery.

4. Topiwala National Medical College is recognized by respondent No. 3, Medical Council of India ('MCI', for short), affiliated to the Maharashtra University of Health Science, Nasik, for under-graduate teaching, and to the University of Mumbai for post-graduate teaching. In order to maintain the standard of Medical Education throughout the country, respondent No. 3 has issued various directives under Section 33 of the Indian Medical Council Act, 1956. In the affidavit, it is mentioned that there is deficiency of one Professor and three Associate Professors in the Department of Surgery. In order to meet the minimum staff requirement as per the directives of the MCI, pursuant to this Court's directives passed in Writ Petition (Lodging) No. 1755 of 2004, these respondents proposed to create two posts of Professors and three posts of Associate Professors in Surgery on the establishment of Topiwala National Medical College. It is also mentioned that one Professor has already been appointed.

5. The Municipal Commissioner, in the meeting held on 25th April, 2005, agreed to provide additional staff in order to meet minimum requirement of the MCI to create two temporary posts of Professors and three temporary posts of Associate Professors in the General Surgery subject to prior sanction of Public Health Committee/Corporation for creation of these posts on the establishment of Topiwala National Medical College.

6. It is also incorporated in the affidavit that the creation of these temporary posts required the sanction of the Public Health Committee and the Corporation. The draft letter to the Municipal Secretary is already processed and after clearance from the administrative side, it would be placed before the Public Health Committee/Corporation for sanction. It is further mentioned that obtaining the sanction of the Corporation would take at least three to four months; and immediately after obtaining the sanction, the appointment of two temporary Professors in Surgery and three temporary

Associate Professors in Surgery on the establishment of Topiwala National Medical College would be made after following the procedure.

7. In view of the comprehensive reply, which has been filed by the Corporation, in which it is indicated that the respondents are keen to fill up these posts of two Professors and three Associate Professors after following the procedure, no further directions are necessary from this Court. We, however, impress upon the respondents to expedite the procedure, and appoint two Professors and three Associate Professors in the Department of Surgery as early as possible.

8. The learned counsel appearing for the Corporation assures the Court that they would consider appointing Professors and Associate Professors on officiating basis. The learned counsel also assured the Court that all efforts would be made to ensure that the entire process of appointing Professors and Associate Professors in the Department of Surgery is completed as expeditiously as possible.
9. This petition is accordingly disposed of.

CHIEF JUSTICE

S.J. VAZIFDAR, J.